

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DARRYL LEE SANDERS,

Petitioner,

vs.

DWIGHT D. NEVEN, *et al.*,

Respondents.

2:12-cv-01225-APG-CWH

ORDER

In this habeas corpus action, in an order entered on May 7, 2015, the court directed the petitioner, Darryl Lee Sanders, to make an election regarding Ground 1 of his habeas corpus petition. *See* Order entered May 7, 2015 (ECF No. 7). Sanders must either inform the court that he wishes to abandon Ground 1 and proceed on the remaining exhausted claims in his petition (Grounds 2 (in part), 9 (in part), and 10), or inform the court that he wishes to dismiss his entire petition without prejudice. *See id.* In the May 7 order, the court warned Sanders that, because of the operation of the statute of limitations, dismissal of his entire petition, even “without prejudice,” would likely mean that he is never able to have any of his claims for habeas corpus relief reviewed on their merits in federal court. *See id.* Sanders was to make his election within 30 days after the May 7 order -- by June 8, 2015. Sanders did not make his election by that date.

1 The court will, *sua sponte*, grant Sanders a 30-day extension of time to make his election.
2 Sanders must, therefore, make his election by July 8, 2015. If Sanders does not make his election by
3 July 8, this case will be dismissed in its entirety, without prejudice. Again: while the dismissal of
4 this case would be “without prejudice,” it is likely that Sanders would be unable to bring a
5 subsequent federal habeas corpus action, on account of the operation of the statute of limitations.

6 **IT IS THEREFORE ORDERED** that the time for petitioner to make an election, with
7 respect to Ground 1 of his habeas petition, is extended to **July 8, 2015**. Petitioner must, **no later**
8 **than July 8, 2015**, make the following election, as described in the order entered May 7, 2015
9 (ECF No. 27): petitioner must either (1) file a declaration stating that he wishes to abandon
10 Ground 1 and proceed on the remaining exhausted claims in his petition (Grounds 2 (in part), 9 (in
11 part), and 10), or (2) file a declaration stating that he wishes to voluntarily dismiss his entire habeas
12 petition without prejudice. **If petitioner does not make that election within the time allowed, the**
13 **court will dismiss his entire habeas petition pursuant to *Rose v. Lundy*, 455 U.S. 509 (1982).**

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15 Dated this 15th day of June, 2015.



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17 UNITED STATES DISTRICT JUDGE
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